

VIRGINIA: IN THE CIRCUIT COURT FOR GOOCHLAND COUNTY

ANGELA S. ALLEN

Plaintiff,

v.

KAREN R. HORN,

SERVE: Karen R. Horn

P.O. Box 4

Goochland, Virginia 23063

JOHN D. WRIGHT,

SERVE: John D. Wright

104 Willway Drive

Manakin-Sabot, Virginia 23103

C. MICHAEL NEWMAN, and

SERVE: C. Michael Newman

7211 Shenfield Avenue

Glen Allen, Virginia 23059

SANDRA BAREFOOT-REID,

SERVE: Sandra Barefoot-Reid

2636 Davis Mill Road

Goochland, Virginia 23063

Defendants.

Case No. CL23-669

COMPLAINT

Plaintiff Angela S. Allen, by counsel, states as follows for her Complaint against Karen R. Horn, John D. Wright, C. Michael Newman, and Sandra Barefoot-Reid, (collectively "Defendants"), each of whom is sued in his or her personal capacity.

NATURE OF ACTION

1. Goochland County School Board member Angela Allen made a neutral post on social media, merely informing the public about school district protocol regarding school bathroom

use and requesting public input on the issue. Bizarrely, Defendants responded in a shocking, heavy-handed, and unlawful way, collectively setting out to harm Ms. Allen's reputation. Though knowing it to be false, they pronounced to the public that, as a result of her post, Ms. Allen had violated the Board's Code of Ethics, the Board's "no discrimination" policy, the Constitution, and federal law; and that her post was divisive and threatening and encouraged sex discrimination in the school system. Carrying the apparent import of an official declaration, such false statements had a particularly convincing impact on a trusting, non-government audience. Yet, not only were such statements patently false, but they were known by the Defendants as being plainly untrue.

2. Defendants not only recorded such false statements in a formal Censure Resolution and signed it, but they then publicly repeated and promulgated their false statements during an open school board meeting—ratifying their defamatory statements before a public audience. These wrongful, false statements—made through coordinated action by Defendants—harmed Ms. Allen's reputation, were defamatory and defamatory *per se*, and were set forth in a fashion that constituted common law civil conspiracy.

PARTIES

3. Angela S. Allen ("Plaintiff" or "Ms. Allen") is, and at all times relevant was, a resident of Goochland County, Virginia, and is an elected member of the Goochland County School Board ("GCSB" or the "Board"). She has been on the GCSB since November 2021, and is running for re-election to the Board. This election is to occur on November 7, 2023. She is not running against any of the Defendants.

4. Karen R. Horn ("Ms. Horn") is, and at all times relevant was, a resident of Goochland County, Virginia, and is an elected member of the GCSB. She has been on the GCSB since 2018.

5. John D. Wright (“Mr. Wright”) is, and at all times relevant was, a resident of Goochland County, Virginia, and is an elected member of the GCSB. He has been on the GCSB since 2012.

6. C. Michael Newman (“Mr. Newman”) is, and at all times relevant was, a resident of Goochland County, Virginia, and is an elected member of the GCSB. He has been on the GCSB since 2020.

7. Sandra Barefoot-Reid (“Ms. Barefoot-Reid”) is, and at all times relevant was, a resident of Goochland County, Virginia, and is an elected member of the GCSB. She has been on the GCSB since 2020.

STATEMENT OF FACTS

8. As an elected official, Ms. Allen strives to serve her community with excellence, and she seeks to acquire and share, as appropriate, information needed by herself and her community to maintain proper involvement in school board decisions. From a policy standpoint, Ms. Allen seeks to promote decisions that properly respect and balance the rights and dignity concerns of all students in Goochland, Virginia, so that each student can feel safe and valued.

9. In 2020, the Virginia General Assembly enacted Va. Code § 22.1-23.3 (hereafter the “New Law”), requiring Virginia school boards to adopt policies concerning common issues relevant to “transgender students” that would be consistent with policies developed by the Virginia Department of Education (VDOE). Following the enactment of this law, public interest grew concerning the issues addressed by this law.

10. In July 2021, in addressing whether to update school policy, GCSB decided to add just a citation to the New Law in the “Legal References” section of existing policies rather than develop an actual written policy regarding “transgender student” issues. Even as of the date of

this filing, GCSB has not adopted a written policy addressing issues concerning “transgender students.”

11. In July 2021, prior to her election to the GCSB, Ms. Allen sought to gain insight regarding whether the GCSB needed to pursue any new policies to help with this issue. Specifically, she asked the GCSB how it had been addressing the issue of whether school children could use bathrooms different than those designated for their biological sex.

12. Various Board members and then-GCSB Superintendent Dr. Jeremy Raley both responded to Ms. Allen’s inquiry by affirmatively representing that students in Goochland schools were *not* free to use whatever bathroom they chose. Further, they advised that any deviation from normal sex-differentiated bathroom use was being addressed in GCSB schools on a case-by-case, individualized basis, using a single-use bathroom in the nurse’s clinic or main office. This was the same answer many Goochland parents received from one or more of the Defendants as well as Superintendent Dr. Raley when they inquired on this issue.

13. On November 2, 2021, Ms. Allen was elected by the citizens of Goochland County, Virginia, to serve as a member of the GCSB. This election was a special election, therefore after being elected, she assumed official responsibilities after taking her oath of office on November 8, 2021.

14. Due to the interest and inquiries of fellow Goochland citizens, after being elected, Ms. Allen again inquired of Superintendent Dr. Raley and various GCSB members as to how GCSB had been addressing whether school children could use bathrooms different than those designated for their biological sex.

15. *Again*, various Board members and then-GCSB Superintendent Dr. Raley responded the same way they had previously: that students in Goochland County schools were

not free to use whatever bathroom they chose and that any deviation from normal sex-differentiated bathroom use was being addressed on a case-by-case, individualized basis, using a single-use bathroom in the nurse's clinic or main office.

16. In September 2022, in accordance with the New Law, the VDOE released a revised draft of its "Transgender Model Policies" to the public, making them available for public comment. These draft policies stated that students would be required to use the bathroom that corresponded with their biological sex. These draft policies became a topic of significant news coverage, and each of the GCSB members became aware of the import as well as the thrust of them.

17. On January 17, 2023, Ms. Allen was contacted by a concerned citizen from Goochland. This concerned citizen informed Ms. Allen that her relative, who attended Goochland Middle School, reported that students at Goochland Middle School were free to use the bathroom of their choice, regardless of their biological sex, and without any administrative involvement or oversight at all, and that boys had been seen using the girls' bathrooms on multiple occasions.

18. After receiving the concerned citizen's report, Ms. Allen again contacted each of the Defendants, individually, to determine if they knew about this and to explore whether a policy was needed to address student bathroom use in a way that respected the safety, privacy, and dignity interests of all Goochland students. But she received no indication that any of the Defendants were interested in addressing this issue further.

19. Specifically, when Ms. Allen spoke with Ms. Horn about this, Ms. Horn responded first by acknowledging to Ms. Allen that she was aware of the actual practice in GCSB schools: that students were left free to use the bathrooms of their choosing, regardless of their biological sex. But then, Ms. Horn berated Ms. Allen for daring to ask questions about how the school district was handling this issue.

20. Also after receiving the concerned citizen's report, starting on January 18, 2023, Ms. Allen began having what would be multiple conversations with then-Superintendent Dr. Raley to discuss this information.

21. On January 25, 2023, Dr. Raley informed Ms. Allen that as many as 30 students within the school district had received permission to use school bathrooms other than the ones that were designated for the opposite sex. This information completely contradicted the information that was being told to Goochland parents.

22. Moreover, during a conversation Ms. Allen had with Dr. Raley on January 26, 2023, Dr. Raley admitted to Ms. Allen that, in fact, the school district permitted school children to use either the boys' or the girls' bathrooms regardless of the child's sex and without prior administrative approval.

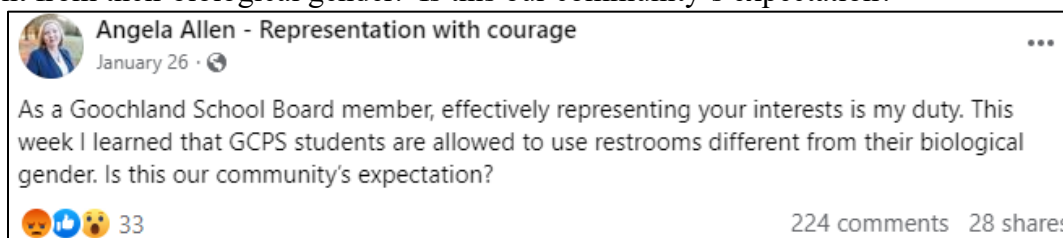
23. As these conversations occurred, it became clear to Ms. Allen that what was being reported by others within GCSB on this issue to her and to the community had been a complete misrepresentation of what actually was the protocol in practice in the school district.

24. Without taking any position on this issue, Ms. Allen determined, before acting, simply to inform the community about the approach GCSB was actively taking on this issue and then to learn from the community its perspectives.

25. Significantly, as a GCSB member, Ms. Allen had agreed to "encourage and facilitate an open, two-way communication process" with the community and that she would render all of her decisions based on, among other things, "appropriate public input." GCSB CODE OF ETHICS Articles 10 and 11 (as they were listed in the Code of Ethics in effect at the time of Ms. Allen's social media post, attached hereto as an Appendix to *Exhibit 1*). The import of this obligation was underscored by the fact that Ms. Allen previously had reported back to county

residents what she had been told by the Superintendent and by Defendants—which she now knew was inaccurate—creating in her an obligation to respond to the community with renewed clarity.

26. Therefore, on January 26, 2023, on Facebook, Ms. Allen posted the message (the “Post”) reproduced below (screenshot taken July 17, 2023), stating as follows: “As a Goochland School Board member, effectively representing your interests is my duty. This week I learned that [Goochland County Public School] students are allowed to use restrooms different from their biological gender. Is this our community’s expectation?”



27. Any objective consideration of the contents and purpose of Ms. Allen’s Post would necessarily conclude that the Post only provided information and requested the community’s input. It presented no opinion, position, recommendation, plan of action, or bias. It was completely neutral.

28. On February 10, 2023, Ms. Allen, Mr. Wright, and then-Superintendent Dr. Raley met, and during that meeting, Dr. Raley confirmed to Mr. Wright the same information he shared with Ms. Allen on January 25 and 26, 2023—as summarized in Complaint ¶¶ 21 and 22—confirming that the school district indeed permitted school students to use bathrooms that were designated for use by the opposite sex.

29. Also, during the March 27, 2023 school board meeting, comments by Mr. Newman, Ms. Horn, and Dr. Raley, made before all board members, further confirmed the Defendants’ knowledge that the school district’s actual practice regarding student bathroom use was as Ms. Allen stated in her Post.

30. Additionally, in a conversation Ms. Allen had with Ms. Horn on January 25, 2023, Ms. Horn indicated that she believed each of the Defendants knew that the school district's actual practice regarding student bathroom use was as Ms. Allen had described in her Post.

31. After Ms. Allen informed the Goochland community about GCSB's *actual practice* related to school bathroom use, wide-spread community discussion on the issue followed. Community members showed up to subsequent February and March 2023 GCSB meetings in large numbers, at times allowing for standing room only. Many of them spoke during public comment time expressing their dismay and disapproval of the practice GCSB had taken regarding student bathroom use.

32. After Ms. Allen's Post, Defendants also received dozens of emails from constituents about the approach GCSB had taken to student bathroom use.

33. In conversations Ms. Allen had with Mr. Wright in February 2023, after Ms. Allen issued her Post, Mr. Wright specifically remarked to her that she would never face any negative action by the Board in response to her Post.

34. But, as Mr. Wright and the other Defendants faced increased scrutiny from the community regarding GCSB's actual practice on this issue, Mr. Wright, along with the other Defendants, set out to disparage Ms. Allen.

35. At that time, upon information and belief, Defendants began privately crafting a strategy to silence Ms. Allen by publicly harming her reputation for integrity, damaging her efforts to be re-elected to the GCSB, and retaliating against her for communicating honestly with the community about the transgender bathroom use issue.

36. To accomplish this objective, Defendants began privately drafting a document they labeled "Censure Resolution Board Member Angela S. Allen, District 2," which they intended to

use both to silence and punish Ms. Allen for speaking out honestly about the transgender bathroom use issue through her January 26, 2023 social media post.

37. Defendants carefully considered possible legal theories and then strategized on how they could retaliate against Ms. Allen for her Post while hoping to avoid legal exposure for taking this action. Defendants had access to legal counsel for the GCSB, but (upon information and belief) did not use this option, keeping their intended actions secret instead. Their secretive actions evince the malice that was wrapped in the actions they took.

38. As a result of Defendants' concerted efforts to damage Ms. Allen's reputation and to silence her, on May 9, 2023, Defendants presented during an open school board meeting their "Censure Resolution," publicly rebuking and censuring Ms. Allen.

39. Ms. Allen was not informed about Defendants' intention to censure her until Mr. Wright moved to do so during the May 9, 2023 Board meeting.

40. The first time Defendants publicized their idea of censuring Ms. Allen was during the May 9 meeting.

41. The agenda that was published before the meeting did not even mention Defendants' intent to consider censuring Ms. Allen. Therefore, community members were not privy to the potential for providing public comment about this prior to the motion for censure being made.

42. During the May 9 meeting, Mr. Wright moved to censure Ms. Allen and read the entire Censure Resolution before the public audience attending the meeting. He moved for the adoption of the Censure Resolution, and Mr. Newman seconded the motion. After no discussion or debate by the Defendants, each of the Defendants voted in favor of the Censure Resolution, which passed 4–1 with Ms. Allen voting no.

43. This Censure Resolution (attached hereto as *Exhibit 1*) was made a matter of public record, was read into the video and the transcribed record, was presented in front of the audience attending the open meeting in person and on the internet via livestream, and was published on the Board's meeting website where it was and continues to be accessible to the public on the internet along with the video archive of the meeting.

44. Through their Censure Resolution, Defendants maliciously defamed Ms. Allen by making knowingly false statements (hereafter referred to collectively as the "Defamatory Statements"), including, among other statements:

- a. In the 1st whereas clause, claiming that Ms. Allen made the Post based on or by "acting on hearsay information" alone, thereby imputing to Ms. Allen a lack of integrity, or reckless actions taken based on unsound information;
- b. In the 6th whereas clause, claiming that Ms. Allen's issuance of the Post was unethical, done "in direct violation of the [GCSB's] Code of Ethics";
- c. In the 7th whereas clause, claiming or implying that Ms. Allen's Post "was divisive and threatening to parents of students with unique needs," by merging into the basis for the Censure comments made by others on her Post;
- d. Again in the 7th whereas clause, claiming or implying that Ms. Allen's Post "encouraged the Board to violate the 'Equal Protection Clause [of the U.S. Constitution] and Title IX of the U.S. Education Amendments of 1972, a federal law prohibiting sex discrimination by schools," by merging into the basis for the Censure comments made by others on her Post;
- e. In the 8th whereas clause, claiming or implying that Ms. Allen herself "encourage[d]" the violation of the laws mentioned in the 7th whereas clause, for which they believed her to be "in direct violation of Articles 1 and 2 of the Code of Ethics."
- f. In the 9th whereas clause, claiming or implying that Ms. Allen's Post "violated Article 7 of the Code of Ethics";
- g. In the 10th whereas clause, claiming that Ms. Allen issued the Post "in direct conflict with Goochland County School Board adherence to the 'Equal Protection Clause and Title IX of the U.S. Education Amendments of 1972, a federal law prohibiting sex discrimination in schools and, thereby, was in violation of Article 20 of the Code of Ethics and School Board Policy of 'no discrimination'";

- h. Claiming or implying that Ms. Allen's Post constituted sex discrimination or encouraged sex discrimination in the school system, both being implied by Defendants' statements listed in subparts d, e, and g above.
- i. In the 11th whereas clause, claiming or implying that through her Post, Ms. Allen acted without integrity, had encouraged violation of constitutional and federal law, and had harmed the Board's reputation by alleging that she had "been accountable for disrupting the integrity of the Board, encouraging violation of the law and blemishing the reputation of the Board"; and
- j. In the "THEREFORE" clause, claiming that through her Post, Ms. Allen had shown a "lack of adherence to the Goochland County School Board Code of Ethics."

45. Each of the Defamatory Statements is, and at the time they were made was, patently false and known to the Defendants as being false.

46. Defendants designed and used the Defamatory Statements to wrongfully impute to Ms. Allen an unfitness to perform, and want of integrity in the discharge of, her duties of public office, harming her reputation as a public servant.

47. But plainly, Ms. Allen committed no ethical violation by anything she stated in her Post, or by the mere act of posting it. Her Post clearly did not violate any provision within GCSB's Code of Ethics—including any of the Articles relied on by Defendants' Censure Resolution: Articles 1, 2, 7, and 20—which defendants knew very well, as underscored by the fact that Defendants had read and signed GCSB's Code of Ethics on numerous occasions throughout their tenure as GCSB members, including on January 10, 2023, and again on May 9, 2023, the very day that Defendants issued the Censure Resolution.

48. Plainly, Ms. Allen's neutral, unopinionated Post did not encourage the violation of the U.S. Constitution or Title IX. Neither was it made in contradiction to the U.S. Constitution, Title IX, nor GCSB's non-discrimination policy.

49. Plainly, Ms. Allen's neutral, unopinionated Post demonstrated no lack of integrity. Rather, it was issued in compliance with GCSB's Code of Ethics, including Ms. Allen's duty to

“encourage and facilitate an open, two-way communication process” with the community and to render all of her decisions based on, among other things, “appropriate public input.” *See* GCSB CODE OF ETHICS Articles 10 and 11.

50. Ms. Allen’s neutral Post did not threaten anyone, and it was in no way divisive.

51. And her Post was not based merely on hearsay, but it was based on conversations Ms. Allen had been having with Dr. Raley, and Defendants knew that Ms. Allen had been conferring with Dr. Raley about this issue.

52. Moreover, the February 10, 2023 meeting with Dr. Raley, Mr. Wright, and Ms. Allen, comments during the March 27, 2023 school board meeting made by Mr. Newman, Ms. Horn, and Dr. Raley, Ms. Horn’s remarks January 25, 2023 to Ms. Allen, and references to anti-discrimination rules in Defendants’ Censure Resolution each demonstrate that the Defendants knew that the school district’s actual practice regarding student bathroom use was as Ms. Allen stated in her Post.

53. Defendants’ decision to censure Ms. Allen was remarkably unusual. According to a public-record search made from the year 2000 to the present, the GCSB has never before censured any of its members during that timeframe, indicating that this Censure Resolution was an unprecedented event in GCSB history.

54. The manner in which Defendants acted collectively and the steps they took to damage Ms. Allen’s reputation show that their wrongdoing was done in bad faith—while knowing their statements were false or while recklessly disregarding the truth—with intent to harm Ms. Allen’s reputation, or alternatively Defendants’ actions were not merely negligent, but reached or exceeded gross negligence.

55. Through Defendants’ wrongful actions, Ms. Allen has suffered significant damages including, but not limited to, financial loss, emotional distress, loss of standing in the community, damage to her reputation, and impairment of her ability to be re-elected as a GCSB member.

COUNT 1: DEFAMATION

56. Ms. Allen hereby repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

57. By preparing, passing, and publicly stating the defamatory words contained in the Censure Resolution, Defendants published to third parties false statements of fact about the character and reputation of Ms. Allen.

58. Their words were defamatory and defamatory *per se* and tended to injure Ms. Allen’s reputation in the common estimation of the community, to disgrace her, to hold her up to ridicule and contempt, among other negative effects from Defendants’ false accusations.

59. Defendants falsely accused Ms. Allen of being unethical, claiming she acted “in direct violation of the Code of Ethics,” claiming she specifically violated Code of Ethics Articles 1, 2, 7, and 20, and wrongfully claiming she violated the Board’s “no discrimination” policy, *see above* ¶ 44(b), (e), (f), (g), and (j); they falsely accused her of having encouraged the violation of, and in fact violating, the U.S. Constitution and federal law, *see above* ¶44(d) and (g); they falsely accused her of encouraging sex discrimination in the school system, *see above* ¶44(h); they falsely accused her of having acted in a fashion that was divisive and threatening to parents, *see above* ¶44(c); and they falsely accused her of having acted without integrity and acting irresponsibly without sound information, *see above* ¶44(a) and (i).

60. Moreover, Defendants’ Defamatory Statements were not mere expressions of opinion but were false statements of fact.

61. Defendants knew the Defamatory Statements were false or made them with reckless disregard to whether they were false.

62. Ms. Allen greatly feels the harm the Defamatory Statements bear against her. When an individual, like Ms. Allen, has sought out public office and voters have entrusted that individual with important duties and responsibilities relevant to the daily care and education of the voters' children, little could be more harmful than publicly stating that such an individual—Ms. Allen in this situation—is performing that duty in an unethical, unlawful, unconstitutional, discriminatory, divisive, threatening, and unsound manner, which are the claims that Defendants fabricated here.

63. As a direct result of Defendants' Defamatory Statements, Ms. Allen has suffered significant damages including, but not limited to, financial loss, emotional distress, loss of standing in the community, damage to her reputation, and impairment of her ability to be re-elected as a GCSB member.

COUNT 2: COMMON LAW CIVIL CONSPIRACY

64. Ms. Allen hereby repeats and realleges each of the foregoing paragraphs as if fully set forth herein.

65. Defendants each combined and conspired to accomplish their unlawful purpose of defaming Ms. Allen by collectively preparing, promoting, and publishing defamatory statements against Ms. Allen in their Censure Resolution.

66. As a direct result of this conspiracy, Ms. Allen has suffered significant damages including, but not limited to, financial loss, emotional distress, loss of standing in the community, damage to her reputation, and impairment of her ability to be re-elected as a GCSB member.

WHEREFORE, Ms. Allen demands judgment against Defendants, jointly and severally, in the amount of five hundred thousand dollars (\$500,000) in compensatory damages and

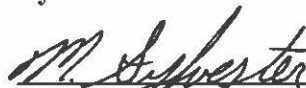
three hundred fifty thousand dollars (\$350,000) in punitive damages, together with pre- and post-judgment interest and the costs of these proceedings.

TRIAL BY JURY IS DEMANDED.

* * *

ANGELA S. ALLEN

By Counsel:

A handwritten signature in black ink, appearing to read "M. Sylvester", is written over a horizontal line.

Joshua A. Hetzler, Esq. (VA Bar No. 89247)

Michael B. Sylvester, Esq. (VA Bar No. 95023)

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